IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

OP.No. 33630 of 2001(U)

PETITIONER:
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1. PRIVATE BANKERS ASSOCIATION,
REPRESENTED BY ITS PRESIDENT,
P.SREEKUMARAN NAIR, N.P.P. HOUSE,
PALKULANGARA, THIRUVANANTHAPURAM – 695 024.

2. S.SASIKUMARAN NAIR,
SOUMYA BHAVAN,
PULLEKONAM,
ANADU.P.O.,
NEDUMANGAD,
THIRUVANANTHAPURAM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED by the CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. SECRETARY,
NEDUMANGAD MUNICIPALITY,
NEDUMANGAD.

BY ADV. SMT. SMITHA, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/03/2007, ALONG WITH O.P.No. 38805/2001 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 33630/2001

ORDER ON CMP NO. 55018/2001 IN O.P.No. 33630/2001

DISMISSED.

01/03/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE REGISTRAR OF SOCIETIES.

EXT.P2 COPY OF THE LICENCE ISSUED BY THE INSPECTING ASSISTANT COMMISSIONER, NEYYATTINKARA TO THE 2ND PETITIONER.

EXT.P3 COPY OF THE FIXED DEPOSIT RECEIPT DATED 27/4/98.

EXT.P4 COPY OF THE CHALAN RECEIPT DATED 28/4/2001.

EXT.P5 COPY OF THE NOTICE DATED 28/6/2001.

EXT.P6 COPY OF THE REPLY SENT BY THE 2ND PETITIONER DATED 21/7/2001.

EXT.P7 COPY OF THE LETTER NO.PH1-5049/2001 DATED 10/8/2001.

EXT.P8 COPY OF THE NOTICE DATED 28/8/2001.

EXT.P9 COPY OF THE NOTICE DATED 01/10/2001.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. Nos. 33630 & 38805 of 2001

Dated, this the 1st day of March, 2007

J U D G M E N T

Even though these two original petitions are pending for last nearly six years, the respondent Municipality has not cared to file counter affidavit in any case. Challenge is against demand of licence fee for carrying on money lending business within the Municipal limits. Even though demand is raised under Section 447 of the Kerala Municipalities Act, Municipality has not stated in the demand notice the relevant Rule under which licence fee is demanded from the petitioners. Even though Sec. 245 of the Kerala Municipalities Act authorizes recovery of profession tax, which probably may be applicable, it is not known whether petitioners are remitting any profession tax. Since the Municipality has not produced any material to sustain the substantial demand of licence fee in this Court and since the orders produced and challenged do not disclose the Rule or basis of demand, I feel the matter should be first decided by the Municipality. Accordingly, these original petitions are disposed of

directing petitioners to approach the Secretary of the Municipality with copy of this judgment. The Municipal Secretary will consider petitioner's objections and if any tax or fee is payable by the petitioners, he will specifically point out the provisions of the Act and Rules under which the same is levied, and the basis thereof and issue notice, give an opportunity to the petitioners to raise objections and decide the matter through a speaking order. If petitioners have any grievance they are free to challenge the said order.

These original petitions are accordingly disposed of.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg